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EXAMINER

RIMELL, SAMUEL G

ART UNIT PAPER NUMBER

2175

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/439,343

Applicant(s)

DIRIENZO, ANDREW L.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10,29-32,35,39-98 and 103-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10,29-32,35,39-98 and 103-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

SAM RIMELL

PRIMARY EXAMINER

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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*OK*  
*Ex. 1, lines 60-65*  
The amendment filed December 11, 2000 (Substitute specification) is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: (1) The inclusion of a "work order summary" (pages 3, 17 and 18 of substitute specification) and (2) Parsing of work order packages into work order summaries and work orders (page 19). *col. 25, lines 40-45* *OK*

Applicant is required to cancel the new matter in the reply to this Office Action. The substitute specification will be denied entry until such time as the new matter is removed.

Claims 35, 46, 48, 49, 50, 69 and 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 35: The phrase "the fees to be charged" (page 9, line 2) lacks antecedent basis.

Claim 46: The phrase "the time derivative" lacks antecedent basis.

Claim 48: The phrase "one of the uses" is vague and unclear. The phrase should apparently read "one of the users".

*→* Claim 49: The phrase "the total number of users" lacks antecedent basis.

*→* Claim 50: The phrase "the total number of transactions" lacks antecedent basis.

*→* Claim 69: The phrase "the time derivative" *the rate of change* lacks antecedent basis.

Claim 78: The phrase "the arithmetic calculations" lacks antecedent basis.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claims 29-32, 35, 45- 47, 55, 60, 64-69, 77, 78, 85, 89 and 93-98 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 29: The phrases "work order summary" and "parsing work order packages into their respective work order summaries and work orders" are each new matter.

Claim 30: Depends upon claim 29.

Claim 31: The phrase "~~summary~~ storage memory" is new matter. *OK*

Claim 32: Depends upon claim 31.

Claim 35: The phrase "associated work order summary" is new matter. *EMF ok, 6-5-01*

Claim 45: The phrase "~~bar~~ graph" is new matter. *data table*

Claim 46: The phrase "~~time~~ derivative" is new matter. *relative velocity OK*

Claim 47: Depends upon claim 45. *DRSP*

Claim 55: The phrase "active computer links" is new matter. The original disclosure describes "links" but does not define the link functionality or the distinction of an "active link". *DRSP*

Claim 60: The phrase "active links" is new matter. *DRSP*

Claim 64: The phrase "direct computer links" is new matter. *data table*

Claim 65: The phrase "~~bar~~ graph" is new matter. *data table*

Claim 66: The phrase "bar graph" is new matter.

Claim 67: Depends upon claim 66.

Claim 68: The phrase "bar graph" is new matter.

Claim 69: The phrase "time derivative" is new matter. *dependence 6-8*

Claim 77: The phrase "arithmetic calculations" is new matter.

Claim 78: The phrase "arithmetic calculations" is new matter.

Claim 85: The phrase "active computer links" is new matter.

Claim 89: The phrase "active links" is new matter.

Claim 93: The phrase "direct computer links" is new matter.

Claim 94: The phrases "segments of a bar" and "bar graph" are new matter.

Claim 95: The phrase "bar graph" is new matter.

Claim 96: Depends upon claim 95.

Claim 97: The phrase "the mean of the bar graph" is new matter.

Claim 98: The phrase "the time derivative of the mean" is new matter.

Claims 29-32, 35, 45-47, 55, 60, 64-69, 77, 78, 85, 89 and 93-98 will not be further examined on the merits. Applicant is required to cancel all new matter presented in the claims as described above.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Inga et al. (U.S. Patent 5,321,520).

Claim 4: Inga et al. discloses a first facility (14) for converting a plurality of physical images (12) into corresponding digital images which are then stored at a remotely accessible data

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storage device (16) and thereby provide a database of images. Second facilities (20) are remote from the first facility but are in electronic communication therewith for providing a service provider with access to the digitized images. The service provider can select one or more images from the database.

Claim 5: The remotely accessible data storage device (16) includes a control computer (72) which functions as a server.

Claim 6: As seen in FIG. 4, the remotely accessible data storage device (16) has the configuration and size of a mainframe computer.

Claim 7: The remotely accessible data storage device (16) includes a redundant array of drives (82), which are CD readers. Such CD readers are relatively inexpensive in relation to the overall storage facility.

Claim 8: The first facility (14) includes means for scanning (36).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

ALL SAME  
Claims 1, 3, 9, 10, 39-44, 48-54, 56-58, 61-63, 70-76, 79-84, 86-87, 90-92, 103-104, 106-111 and 113 are rejected under 35 U.S.C. 102(e) as being anticipated by Silverman et al. (U.S. Patent 5,136,501).

Claim 1: Column 2, lines 17-21 refers to a database of trading instruments available for trade between first and second users. These trading instruments are digital information blocks

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stored in buffer memory. Each of the digital information blocks includes an indicia of priority, which is either a bid or an offer (See FIG. 4). The digital information blocks are traded between first and second users.

Claim 3: As seen in FIG. 16, users can change the indicia by canceling the indicia. A user can also change the indicia by making multiple offers of multiple bids.

Claim 9: The indicia may be an ask price (FIG. 4).

Claim 10: The ask price is suggested by one of the users. It is not generated automatically.

Claim 39: The digital information blocks are trading instruments in a database (col. 2, lines 17-21). The digital information blocks are ordered within a database. The blocks may be represented by graphic indicators (any of the boxes, lines or indicia in FIG. 4). The indicia of priority is the bid or offer (ask) price.

Claims 40-41: The indicia of priority is the bid or offer (ask) price.

Claim 42: The graphic indicators include both numbers and letters.

Claim 43: FIG. 4 illustrates statistical measures, such as blocks for best offer value and best bid. Value.

Claim 44: The statistical measures are represented graphically, by a graphical user interface.

Claim 48: As seen by comparing FIGS 4-5, the statistical information (best offer value and best bid value) is displayed at only the central station, and thus is presented to only one of the users.

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Claim 49: The total number of users may inherently be represented by the total number of blocks when all the users are bidding.

Claim 50: In FIG. 4, each block represents a displayed transaction.

Claim 51: IN FIG. 16, original offers that are cancelled are represented as large hash marks.

Claim 52: As seen in FIG. 4, the indicia are ordered into separate queues. Indicia representing bids are on the left queue. Indicia representing offers are on the right queue.

Claim 53: The graphic indicators in FIG. 4 are ordered according to the time they were received (see right and left pointing arrows at top).

Claim 54: The graphic indicators in FIG. 4 are further ordered according to additional information, namely, the absolute value of price.

Claim 56: FIG. 17 illustrates highlighted graphical indicators (boxes containing "139.19").

Claim 57: Each user has a graphical user interface that is fully visible to that user. Each graphical user interface can present information that is generated by one of the users.

Claim 58: Any number illustrated in FIG. 4 reads as a document control number.

Claim 61: The blocks of FIG. 4 are constantly re-ordered as data is added, or as shown in FIG. 16, re-ordered as data is removed.

Claim 62-63: See remarks for claim 3.

Claim 70: See remarks for claim 39.

Claim 71: See remarks for claims 40-41.



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Claim 72: Each graphical indicator includes information extracted from the digital information blocks, namely, the quantity of information blocks being sold for each bid value (see FIG. 4, lower left corner).

Claim 73: See remarks for claims 40-41.

Claim 74: See remarks for claim 43.

Claim 75: See remarks for claim 44.

Claim 76: In FIG. 4, the statistical information is best offer value and best bid value (lower right side). These are bidding and asking prices.

Claim 79: See remarks for claim 49.

Claim 80: See remarks for claim 50.

Claim 81: See remarks for claim 51.

Claim 82: See remarks for claim 52.

Claim 83: See remarks for claim 53.

Claim 84: See remarks for claim 72.

Claim 86: A graphic indicator generated by one user may indicated to that one user, or other users.

Claim 87: See remarks for claim 58.

Claim 90: See remarks for claim 61.

Claim 91: See remarks for claim 3.

Claim 92: The digital information block can be removed from auction when it is sold.

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Claim 103: The digital information block are trading instruments that can be traded between "second" and "third" users, as these are no different than first and second users. The "links" are the blocks illustrated in FIG. 4. The set of links displayed is the link list.

Claim 104: The digital information blocks are trading instruments, which are electronic files since they are stored in a database (col. 2, lines 17-21). The indicia are bid and ask prices. No patentable weight is attributed to the method steps of following a link or issuing payment.

Claim 106: See remarks for claim 3.

Claims 107-111 and 113: The system may include any number or "N" information blocks or "M" users.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

*ALL SAME*  
Claims 2, 105 and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et al.

Claims 2, 105 and 112: Silverman et al. discloses trading instruments stored in a database (col. 2, lines 17-21). In relation to the apparatus, the content of the instrument is not functionally related to the substrate. It merely resides in the substrate for retrieval. In accordance with *In re Gulack* (703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) ), when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. Accordingly, the inclusion of medical images as the descriptive material in the trading instrument will not distinguish from

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the prior art in terms of patentability, and is considered to have been obvious to one of ordinary skill in the art.

*ALL SAME*

Claims 59 and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et al. in view of Patterson, Jr. et al. (U.S. Patent 5,915,245).

Claims 59 and 88: Patterson et al. illustrates the usage of file names (IBM in FIG. 1) which are associated with tradable instruments. It would have been obvious to one of ordinary skill in the art to modify Silverman et al. to include file names with each block of graphical data in order to distinguish between different trading instruments, as taught by Patterson, Jr. et al.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell  
Primary Examiner  
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